WPP-47

# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

| ಸಂಪುಟ ೧೪೭ | ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಮಾರ್ಚ್ ೨೨, ೨೦೧೨ (ಚೈತ್ರ ೨, ಶಕ ವರ್ಷ ೧೯೩೩) | ಸಂಚಿಕೆ ೧೨ |
|---|---|---|

## ಭಾಗ – ೪

## ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

**ELECTION COMMISSION OF INDIA**

**ELECTION COMMISSION OF INDIA, NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001**

**NOTIFICATION**

**Dated : 28th February, 2012, 9 Phalugna, 1933 (Saka).**

No. 82/KT-LA/(6/2009)/2012-In pursuance of Section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publish the order of the High Court of Karnataka at Bangalore, Dated 21st October, 2011 in Election Petition No. 6 of 2009.

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**DATED THIS THE 21st DAY OF OCTOBER, 2011.**

**BEFORE**

**THE HON'BLE MR. JUSTICE H.N. NAGAMOHAN DAS**

**E.P. No. 6/2009**

**BETWEEN :**

PRIYANK KHARGE
AGED ABOUT 30 YEARS
S/o MALLIKARJUN KHARGE
R/o HOUSE No. HE-11-1297
BASAVANAGARA, BRAHMAPUR,
GULBARGA-585103. …PETITIONERS

(By Sri NANJUD REDDY, SR. COUNSEL FOR
Sri L.M. CHIDANANDAYYA, ADV.)

AND ;

1. SRI VALMIKI NAIK, MAJOR,
   S/o VALIMIKI KAMALU
   MEMBER OF LEGISLATIVE ASSEMBLY,
   CHITTAPUR CONSTITUENCY,
   No. E-344, WADI, GULBARGA DIST.-585225.

2. AYYAPPA RAMATHIRTHA, MAJOR,
S/o HANUMANTHA
H.No. 1/137, POST BEEMANALLI,
TALUK CHITTAPUR, GULBARGA DIST.

3. BASAVARAJ BENNUR, MAJOR,
S/o MARAPPA BENNUR
CHITTAPUR TQ. GULBARGA DIST.

4. SHANKAR JADHAV, MAJOR
FATHERS NAME NOT KNOWN
HOUSE No. 9-595/16/11,
SYED CHINCHOLI ROAD,
FILTER BED, GULBARGA

5. DEVENDRA, MAJOR
S/o HANUMANTHA
PANCHASHEELA NAGARA,
GULBARGA TOWN, GULBARGA DIST.

6. RAJAPPA, MAJOR,
S/o KHATALAPPA
BHUYAR, GULBARGA TQ & DIST.

7. SATYAM SATISH ALLOLI, MAJOR
S/o SHANKARAPPA
BADEPUT COLONGY,
GULBARGA TOWN-585105.

8. SANJAY KUMAR R GHATTARGI, MAJOR
S/o REVANA SIDDAPPA GHATTARGI
POST KADGACHI, ALAND TQ.,
GULBARGA DIST. …RESPONDENTS

(By Sri Sanath Kumar Shetty K. Adv., For
Sri Sanchin B.S., Adv., For R1)

ELECTION PETITION PRESENTED u/s 81 OF THE REPRESENTATION OF PEOPLE ACT, 1951 PRAYING THAT CALL FOR THE RECORDS WHICH ULTIMATELY RESULTED IN DECLARING THE 1st RESPONDENT AS THE RETURNED CANDIDATE BY ISSUING FORM No. 21D AND FORM No. 21E BY THE RETURNING OFFICER OF No. 40 CHITTAPURA ASSEMBLY CONSTITUENCY AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, THIS DAY, H.N. NAGAMOHAN DAS. J. PRONOUNCED THE FOLLOWING ;

**ORDER**

This petition is filed under Section 81 of the Representation of People's Act, 1951 (for short the Act) to declare the election of respondent No. 1 as member of Karnataka Legislative Assembly from No. 40 Chittapur Assembly Constituency in Gulbarga District, Karnataka State as void and illegal for having committed corrupt practices under Section 123 of the Act, Further to declare the petitioner as Returned Candidate from the Chittapur constituency as member of Karnataka Legislative Assembly and for other reliefs.

2. Petitioner contends that in the general elections held for Karnataka State Legislative Assembly in 2008 his father Mallikarjun Kharge contested the elections from Chittapur assembly constituency which was reserved for Schedule Caste category and got elected as a candidate from the Indian National Congress party. Thereafter in the month of April/May, 2009 general elections to Lok-Sabha was held and the petitioner's father contested and got elected from Gulbarga reserved Lok-Sabha

constituency. As a result, petitioner's father tendered his resignation as member of Karnataka Legislative Assembly. This development necessitated to hold bye elections to Chittapur assembly constituency.

3. The election Commission of India issued Notification bearing No. ECI/PN/38/2009 to hold bye-election to Chittapur Assembly constituency. As per the Notification the elections events are as under :

| | | | |
|---|---|---|---|
| I. | Last date for filing nomination paper | - | 29-07-2009 |
| II. | Scrutiny of the nominations | - | 30-7-2009 |
| III. | Last date for withdrawal of Nominations | - | 1-8-2009 |
| IV. | Date of election | - | 18-8-2009 |
| V. | Date of counting | - | 21-8-2009 |

4. In the bye-elections to Chittapur Assembly constituency the petitioner contested as a candidate from Indian National Congress, respondent No. 1 contested from Bharatiya Janata Party, respondent No. 2 contested as a candidate from Bahujan Samaj Party, respondent No. 3 contested from Janata Dal (Secular) Party, respondent No. 4 contested from Bharatiya People's Party and respondent Nos. 5 to 8 contested as independent candidates.

5. As per the calendar of events elections were held on 18-8-2009 and on 21-8-2009 the counting was held and respondent No. 1 was declared as Returned Candidate from Chittapur Assembly constituency.

6. Petitioner contends that respondent No. 1 used unfair means and adopted corrupt practices, committed election fraud, bribery, undue influence and thereby committed various illegal acts which amounts to corrupt practices within the meaning of Section 123 of the Act Petitioner contends that large number of people from Chittapur Assembly constituency have moved out of the constituency for eking out their livelihood. Some of them who have gone outside Chittapur constituency have settled in Pune. Mumbai and other places in the State of Maharashtra. Respondent No. 1 had hired nearly 38 buses from Pune and Mumbai to ferry voters from those places and other places in Maharashtra and brought them to Chittapur constituency on 17-8-2009 to vote in his favour. It is stated that the buses bearing registration Nos. MH01L7500. MH04G5366, MH04G3692, MH04G2710, MH032884, MH032727, MH43H0095, MH04G9999, MH04G4167, MH43H6007, MG43H0096, MH432151 of Maharashtra State had entered the State of Karnataka ferrying the voters. The petitioner being a vigilant person put up his men near Wadi, Ravoor and other places. It is contended that at the check post near Wadi, Ravoor and other places buses having Maharashtra registration numbers were allowed to enter the State of Karnataka without any valid permits. It is contended that voters are ferried from Maharashtra on payment of daily wages of Rs. 500/- solely to vote in favour of respondent No.1 It is further contended that the ferried votes were also provided free food, alcohol and were treated royally with a view to ensure that they caste their votes in favour of respondent No.1.

7. It is further contended that on 18-8-2009 the petitioner personally found four buses near Balaram Chowk and one bus near Ravoor cross near Wadi town and two buses were parked near Yagapur tanda and they all were bearing Maharashtra Registration Numbers-MH01L7500, MH04G5366, MH04G3692, MH04G2710, MH032884, MH032727. In this connection the petitioner and his political party workers complained to the concerned Inspector of Police, Superintendent of Police and they did not take any action by colluding with respondent No. 1. The petitioner with his party workers went near Ravoor cross and at that time the national and local media came to the spot and noticed the entry of Maharashtra registration buses with voters entering the Chittapur Assembly constituency. On the same day, Television channels like E-TV, Udaya TV, Suvarna TV, TV9, Zee News and local TV News Channels telecasted the ferrying of votes by respondent No. 1.

8. It is contended that Bharatiya Janata Party is presently in power in the State of Karnataka and during the bye-election campaign the entire official machinery was abused and misused in furtherance of the prospects of the first respondent getting elected in the elections. The various officials/officers out and out supported the cause of respondent No. 1 despite several complaints lodged. These officers did not take cognizance of the violations committed by the first respondent. Even the district incharge minister Sri Revu Naik, Minister for Animal Husbandry made all possible efforts to ensure that the entire officialdom of the constituency are turned hostile to the petitioner and the officials of the Government were mute to the various corrupt practices adopted by respondent No. 1.

9. Respondent No. 1 entered appearance and filed written statement interalia denying the allegations relating to corrupt practices, misuse and abuse of official machinery and ferrying of voters. Respondent No. 1 contends that they have not ferried any

voters from the State of Maharashtra. It is contended that bye-elections were held in accordance with law and by following procedure. There is no violation of the code of conduct and the election rules. The bye-elections were held in fair and proper manner. Desipite service of notice respondents 2 to 8 remained unrepresented and they are placed exparte. On the basis of pleadings, the following issues are framed. :

I. Whether the petitioner proves that the first respondent Returned Candidate has committed the corrupt practice of ferrying voters from Maharashtra to Karnataka as state in the petition and thereby committed corrupt practice under Section 123(5) of Representation of People Act, 1951 ?

II. Whether the petitioner proves that the first respondent abused, the official machinery or committed any corrupt practice under Section 123(7) of the Representation of People Act, 1951 in the bye-election to No. 40, Chittapur Assembly Constituency ?

III. Whether the petitioner is entitled to the relief of declaration, declaring that the election of the first respondent as void on account of committing corrupt practice under Section 123(5) and (7) of the Representation of People Act, 1951.?

IV. Whether the petitioner is entitled to be declared as having been duly elected from No. 40, Chittapur Assembly Constituency ?

10. Petitioner examined himself as PW. 1 and exarnined another ten witnesses as PW. 2 to PW .11 and got marked Ex.Pl and Ex. P18 and MO.1 to MO. 3 Respondent No. 1 examined himself as RW. 1 and another witness as RW 2. Respondent has not produced any documents.

11. Heard arguments on both the side and perused the entire petition papers.

12. Sri Nanjunda Reddy, Learned Senior Counsel for the petitioner submitted that he is not pressing issue-2 relating to abuse of official machinery and corrupt practices under Section 123(7) of the Act and also issue No. 4 to declare the petitioner as return candidate. Further Learned Senior Counsel submits that petitioner is only pressing issues-1 and 3 relating to the ferrying of voters as a corrupt practice under Section 123(5) of the Act. The submission of Learned Senior Counsel is placed on record. In view of this submission there is no need for the Court to give a finding on issue-2 and issue-4. This Court is only required to consider issue-1 and issue-3. Theses two issues are interconnected and as such they are taken together.

On Issue-1 and 3

13. Section 123(5) of the Act reads as under :

123. Corrupt Practices-The following shall be deemed to be corrupt practices for the purposes of this Act :-

(1) .........................................

(2) .........................................

(3) .........................................

(4) .........................................

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent or the use of such vehicle or vessel for the free conveyance of any elector other than the candidate himself the members of his family or his agent to or from any polling station provided under Section 25 or a place fixed under sub-Section (1) of Section 29 for the poll :

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall. Not be deemed to be a corrupt practice under this Clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power.

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this Clause.

Explanation-In this Clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) ……………………………………………

(7) ……………………………………………

14. The Supreme Court in Joshbhai Chunibai Patel vs. Anwar Beg Mirza, AIR 1969 SC 586 while interpreting Section 123(5) of the Act held that the following three ingradients are required to be proved to constitute corrupt practice under this Section :

i) hiring or procuring of vehilcle

ii) by a candidate or his agent, etc ; and

iii) for the free conveyance of an elector.

15. In the petition it is pleaded that the first respondent hired nearly 38 buses from Pune and Mambai to ferry the voters. But the registrations numbers of 12 buses are mentioned in para-4 of the petition. It is further pleaded that petitioner had personally seen four buses near Balaram Chouk, one bus near Ravoor cross and two buses near Yagapur Tanda and their numbers are specified in para-15 of the petition. PW. 1 in his evidence deposes that he got the information that several buses are hired by the first respondent and his election agent to ferry the voters. Except this pleadings and evidence, there is no other eveidence on record with regard to hiring of vehicles. There is no documentary evidence or direct oral evidence in proof of first respondent hiring the vehicles to ferry the voters. There is no evidence on record to show that from which place the vehicles were hired, from whom the vehicles are hired, on what price, for how many days and what are their registration numbers. Even the evidence of PW. 1 is hearsay evidence. In the absence of any such evidence on record, the petitioner has failed to prove the first two requirements under Section 123(5) of the Act i.e., hiring of vehicles by the first respondent or his agent.

16. In the pleadings and in the evidence, it is stated that these buses bearing Maharashtra registration number entered Chittapur constituency from the State of Maharashtra. There is no evidence on record to show that these buses have come from Pune and Mumbai. According to the petitioner Ex.P15 is the certified Xerox copy of the check post record given by the Regional Transport Office, Gulbarga specifying the entry of buses from the State of Maharashtra into Chittapur Assembly Constituency. A perusal of Ex.P15 specifies that it is an extract of telephone trunk call register. Therefore, no reliance can be placed on Ex.P15 in support of petitioner's contention that the RTO officials entered the registration number of vehicles in the register maintained by them to show that buses from Maharashtra entered Chittapur Assembly Constituency. Even if some buses have entered from State of Maharashtra into Chittapur Assembly Constituency, then there is no proof to hold that they are hired by the first respondent and his agent, these buses were carrying voters from Maharashtra to Chittapur Assembly Constituency and that the voters were travelling free of cost.

17. Petitioner contends that the buses illegally entered from the State of Maharashtra into Chittapur Assembly Constituency without valid permits and at the check post the checking Authorities levied fine. In support of this contention, the petitioner produced true copies of check report curn receipts as per Ex.P4 to P9. A perusal of this documentary evidence specifies that the police checking squad levied fine for the offences like Non-production of driving license, not wearing uniform, failure to maintain first-aid box and road obstruction. None of these receipts Ex.P4 to P9 specify that the buses mentioned in these receipts are not having valid permits to enter State of Karnataka. Therefore, no reliance can be placed on Ex.P4 to P9 in support of petitioner's contention that buses from Maharashtra illegally entered State of Karnataka without valid permits.

18. According to the petitioner on 18-8-2009, they gave complaint to the police at Wadi about illegal entry of buses into Chittapur Assembly Constituency through Ravoor cross. Petitioner further contends that police have seized the vehicles and registrered cases against them. The copy of police complaint said to have been given by the petitioner is not produced before the Court. No document is produced in support of the registration of case by the police and drawing up of mahazar for seizing the vehicles. No officials from the concerned police station are examined. In the absence of any such evidence, it is not possible to accept the contention of the petitioner that illegally buses from the State of Maharashtra have entered into the Chittapur Assembly Constituency.

19. The bye-election was held on 18-8-2009. On 19-8-2009 Dr. Prabhuraja Kantha-the election agent of the petitioner gave a written complaint to the Chief Election Commissioner as per Ex.P. 10. In this Ex.P.10 it is specifically stated that BJP engaged 38 buses from the neighbouring Maharashtra to ferry voters to the polling stations at Chittapur Assembly Constituency. Further it is stated that the occupants of 38 buses who were travelling on the date of poll were bogus voters. But surprisingly in the election petition it is pleaded that respondent No. 1 engaged the buses to ferry voters from neighbouring Maharashtra state. It is further pleaded in the election petition that the voters of Chittapur Assembly Constituency migrated to different parts of Maharashtra in search of livelihood and they-are brought back on 18-8-2009 to vote in favour of respondent No. 1. Ex.P.10- the complaint given by the election agent of the petitioner had come in to existence at the earliest point of time on 19-8-2009. The averments in the

complaint Ex.P.10 are entirely different from the averments made in the election petition. Thus there is deviation in the stand taken by the petitioner and his election agent from time to time. Further the election agent is not examined in this case to explain the circumstances under which Ex.P.10 was given and also the averments contained therein. Thus the very foundation of election petition is unsustainable.

20. P.W.2 to P.W. 8 are the witnesses examined by the petitioner in support of his contention that on 18-8-2009 they have seen the ferrying of voters in the buses from the State of Maharashtra to the Chittapur Assembly Constituency at Ravoor cross. These witnesses deposed in their evidence that they are Congress party members and workers. These witnesses deposed that on 18-8-2009 they have seen the busses carrying voters from the State of Maharashtra entering Chittapur Assembly Constituency, these witnesses and others protested the entry of buses into the Chittapur Assembly Constituency, they complained to the jurisdictional police at Wadi and in turn the police had taken the buses and the voters to the police station. It is further deposed that these witnesses interacted with the voters in the buses and they told that respondent No. 1 and his son brought them at their cost to vote in their favour. Thus the say of these witnesses is a hear-say evidence. Some witnesses deposed that they received information on 17-8-2009 about ferrying of voters. Other witness deposed they got the information on 18-8-2009. Some of the witnesses deposed that they have seen two buses and some other witnesses say that they have seen five buses. Some witnesses deposed that in the buses there were voters who have already exercised their vote. Some other witnesses deposed that the police at Wadi released the buses and the voters after 4-00 PM on 18-8-2009 enabling them to go to the respective polling station to exercise their vote. Further these witnesses deposed that they have not personally seen the persons coming from Maharashtra and voting in Chittapur Assembly Constituency. Further it is deposed that these witnesses have no personal knowledge as to who engaged the buses. Thus the evidence of these witnesses is here say evidence, there is inconsistency and the same do not corroborate with the contention taken by the petitioner.

21. According to the petitioner the entire event relating to the entry of buses at Ravoor cross, seizure of buses by Wadi police, obstruction by the petitioner and his supporters was videographed and they are produced and marked as M.1 to M. 3 subject to proof. This evidence Ex.M. 1 to Ex.M. 3 are sealed covers containing compact discs and they are marked subject to proof. The person who videographed the event, the owner of electronic vide equipment or the person who prepared the compact discs are not examined before the Court. The sealed covers marked as Ex.M1 to M3 remained as sealed covers and they are not opened and the compact discs are not displayed on the screen. Thus Ex.M1 to M3 are not proved.

22. P.W.9 is the Senior Assistant Editor in the English daily newspaper 'The Hindu' Through this witness Ex.P 18* a paper cutting of the Hindu daily dated 19-8-2009 came to be marked subject to proof. The entire newspaper is not produced before the Court. Ex.P.18 is only a paper cutting. This witness in his deposition stated that on enquiry BJP leaders informed him that they have hired 38 buses from Maharashtra to transport the workers who are working in Maharashtra belonging to Banjara, tandas in Chittapur Assembly Constituency. He further deposed that brining voters from Maharashtra was the responsibility of Sri. Prabhu Chauha-Aurad MLA. This witness has not furnished the names of BJP leaders who gave. Information to him. Again this versison of P.W.9 do not corroborate with the contention of the petitioner that respondent No. 1 hired vehicles and he brought the voters from the State of Maharashtra to Chittapur Assembly Constituency. Therefore the evidence of P.W. 9 will not help the petitioner in any way.

23. P.W.10 was the reporter for TV9 Kannada electronic media channel of Gulbarga district. P.W.10 deposed that on 18-8-2009 he received a phone call from the Congress workers stating that large number of voters are ferried from neighbouring Maharashtra state and the busses ferrying the voters are stopped at Ravoor cross by the Congress workers. On receipt of this information P.W. 10 and the Cameraman by name Ravi Kumar S. Jalawadi went to Ravoor cross and recorded. In their camera the incident relating to the entry of buses from the State of Maharashtra to Chittapur Assembly Constituency, protest by the Congress workers, presence of the petitioner, interaction with the incumbents of the buses, seizure of the buses by the Wadi police. He further deposed that on the same day evening the event recorded in the camera came to be telecasted in the Suvarna news channel.

24. P.W.11 is the Cameraman who had accompanied P.W. 10 on 18-8-2009. In his evidence P.W. 11 deposed that he and P.W. 10 also interviewed some persons and recorded the same in the camera. After recording the event he states that the compact disc was sent to their office and the same may be available in their office. These compact discs are not produced through these two witnesses. These two witnesses do not whisper a word with regard to the number of buses their registration numbers, who engaged the buses, from which place the incumbents in the buses travelled, in which polling station they voted, whether the buses are seized by the police or not. The evidence of these two witnesses will not help the petitioner, particularly when the compact disc is not marked through these witnesses.

25. This Court by order dated 21-6-2011, at the instance of the petitioner, issued summons to two witnesses to produce the DVD available with them in which the incidence on 18-8-2009 at Ravoor cross was recorded. In response to the summons issued by this Court one person by name M. Ramesh representing T.V.9 Kannada news channel produced the DVD recorded by their reporter and cameraman and the same was taken on recond on 28-6-2011. Surprisingly the petitioner has not chosen to examine the T.V. 9 news channel representative M. Ramesh and the DVD was not marked as an exhibit. Even this DVD produced before the Court is not marked either through P.W. 10 or P.W. 11. Since this DVD is not marked in the evidence the same is not looked into by this Court. Further one Sri Anantanarayana-a representative of Asia-Net Private Limited Suvarna News Channel appeared before the Court and filed a memo stating that they have not preserved and retained the DVD relating to the recording of the incident on 18-8-2009 at Ravoor cross. Thus the petitioner has miserably failed to prove issue No. 2 and 3.

For the reasons stated above the petition is hereby dismissed with no order as to costs.

**Section Officer,**
High Court of Karnataka,
Bangalore-560001.

under Rule 19 of the Election
Petition Procedure Rules, 1967

## FORMAL ORDER

## IN THE HIGH COURT OF KARNATAKA AT BANGALORE

## ELECTION PETITION No. 6/2009

BETWEEN :

PRIYANK KHARGE
S/o MALLIKARJUN KHARGE
AGED ABOUT 30 YEARS
R/o HOUSE No. HE-11-1297
BASAVANAGARA, BRAHMAPUR,
GULBARGA-585103. …PETITIONERS

(By Sri. L.M. CHIDANANDAYYA, ADVOCATE)

AND ;

1. SRI VALMIKI NAIK, MAJOR,
S/o VALIMIKI KAMALU
MEMBER OF LEGISLATIVE ASSEMBLY,
CHITTAPUR CONSTITUENCY,
No. E-344, WADI, GULBARGA DIST.-585225.

2. AYYAPPA RAMATHIRTHA, MAJOR,
S/o HANUMANTHA
H.No. 1/137, POST BEEMANALLI,
TALUK CHITTAPUR, GULBARGA DIST.

3. BASAVARAJ BENNUR, MAJOR,
S/o MARAPPA BENNUR
CHITTAPUR TQ. GULBARGA DIST.

4. SHANKAR JADHAV, MAJOR
FATHERS NAME NOT KNOWN
HOUSE No. 9-595/16/11,
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S/o SHANKARAPPA
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GULBARGA TOWN-585105.

8. SANJAY KUMAR R GHATTARGI, MAJOR
S/o REVANA SIDDAPPA GHATTARGI
POST KADGACHI, ALAND TQ.,
GULBARGA DIST. …RESPONDENTS

VIDE ORDER DATED 19-7-2010, R-2 TO R-8 ARE PLACED EXPARTY
By. SRI SANATH KUMAR SHETTY K. ADV., FOR
By. SRI SACHIN B.S., ADV., FOR R-1

This Election Petition was presented under Section 81 of the Represetation of People Act, 1951, by one Sri Priyank Kharge challenging the Election of Respondent No. 1, to the bye-election to Karnataka Legislature from No. 40 Chittapura Assembly Constituency praying to :

a) Call for the records which ultimately resulted in declaring the 1st Respondent as the returned candidate by issuing form No. 21D and form No. 21E by the returning officer of No. 40 Chittapura Assembly Constituency ;

b) Declare the election of the 1st Respondent to the No. 40 Chittapura Assembly Constituency 2009 as member of the Legislative Assembly Constituency as void and illegal for having Committed corrupt practices under Section 123 of the Representation of People Act 1951 ;

c) Declare the petitioner as returned candidate from No. 40, Chittapura Assembly Constituency as a member of the Karnataka Legislative Assembly ;

d) Grant such other relief as this Hon'ble Court deems fit and proper in the circumstances of the case in the interest of justice and equity.

It is ordered and decreed that this Election Petition was assigned to Hon'ble Mr. Justice H.N. Nagamohandas under Section 80(A) of the Representation of People Act 1951, and the same was posted for order on 23-10-2009 as contemplated under rule 10 of the Election Petition procedure Rules read with Section 86 of the Representation of People Act, 1951. The issues were framed by the Hon'ble High Court on 7-9-2010 and matter was posted for evidence on 1-10-2010. On 25-8-2011 final arguments were concluded and matter was reserved for Judgement.

It is further ordered and decreed that the Hon'ble Court pronounced the Judgement, in the presence of Sri Nanjund Reddy, Sr. Counsel for Sri L.M. Chidanandayya, Adv., for Petitioner Sri Sanath Kumar Shetty K for Sri Sachin B.S. Adv., for R-1, dismissing the Election Petition for the reasons stated therein.

It is further ordered and decreed that this Election Petition be and the same is hereby dismissed with no orders as to costs.

Given under my hand and seal of this Court on 21st day of October 2011.

**Registrar (Judicial)**

By Order
**R.K. SRIVASTAVA**
Principal Secretary,
Election Commission of India.

**P.R. 03**